

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
NO. 5:17-CR-00346-1D

UNITED STATES OF AMERICA :
:
v. :
:
BRIAN ALLEN GARDNER :
:

PRELIMINARY ORDER OF FORFEITURE

WHEREAS, pursuant to the entry of a Memorandum of Plea Agreement entered into by the defendant on January 23, 2018, the defendant's guilty plea to an offense in violation of 21 U.S.C. § 846, and further evidence of record as presented by the Government, the Court finds that the following property is hereby forfeitable pursuant to 21 U.S.C. § 853, as representing proceeds the defendant obtained, directly or indirectly, as a result of the said offense or property intended to be used, in any manner or part, to commit, or to facilitate the commission of the offense, to wit:

- (1) A .44 caliber Charter Arms pistol, bearing serial number 1032572;
- (2) any and all related ammunition; and
- (3) \$1,724.00 in U.S. Currency;

AND WHEREAS, by virtue of said finding, the United States is now entitled to entry of a preliminary order of forfeiture pursuant to Fed. R. Crim. P. 32.2(b)(2); and to seize the

specific property subject to forfeiture, to conduct any discovery the Court considers proper in identifying, locating, or disposing of the property, and to commence proceedings that comply with any statutes governing third-party rights, as provided by Fed. R. Crim. P. 32.2(b)(3);

It is hereby ORDERED, ADJUDGED and DECREED:

1. That based upon the Guilty Plea by the defendant, Brian Allen Gardner, the United States is hereby authorized to seize the above-stated property, and it is hereby forfeited to the United States for disposition in accordance with the law, including destruction, subject to the provisions of 21 U.S.C. § 853(n), as allowed by Fed. R. Crim. P. 32.2(b)(3). In accordance with Fed. R. Crim. P. 32.2(b)(4)(A), this Order is now final as to the defendant.

2. That upon sentencing and issuance of the Judgment and Commitment Order, the Clerk of Court is directed to incorporate a reference to this Preliminary Order of Forfeiture in the applicable section of the Judgment, as required by Fed. R. Crim. P. 32.2(b)(4)(B).

3. That pursuant to 21 U.S.C. § 853(n), the United States shall publish notice of this Order and of its intent to dispose of the property in such manner as the Attorney General or the Secretary of Treasury directs, by publishing and sending notice in the same manner as in civil forfeiture cases, as provided in

Supplemental Rule G(4). Any person other than the defendant, having or claiming any legal interest in the subject property must file a petition with the Court within 30 days of the publication of notice or of receipt of actual notice, whichever is earlier.

The petition must be signed by the petitioner under penalty of perjury and shall set forth the nature and extent of the petitioner's right, title, or interest in the subject property, and must include any additional facts supporting the petitioner's claim and the relief sought.

4. That upon adjudication of all third party interests this Court will enter a Final Order of Forfeiture pursuant to 21 U.S.C. § 853, as required by Fed. R. Crim. P. 32.2(c)(2).

SO ORDERED. This 8 day of May, 2018.

J. Dever
JAMES C. DEVER, III
Chief United States District Judge